

REMARKS/ARGUMENTS:

Claim 47 was rejected under 35 U.S.C. § 102(a) as being anticipated by Behrens et al., Science vol. 280, April 24, 1998, pages 596-599 because the foreign priority to DE 19738205.3, which was filed on September 2, 1997, has not been established. The Examiner has asserted that upon review of the application, there is ambiguity as to whether applicant has filed a certified copy of the foreign application as required by 35 U.S. C. 119(b).

Although our file indicates that a certified copy of the priority document was filed on September 29, 2000, Applicants submit herewith another certified copy of German Patent Application No. 19738205.3 to expedite the prosecution of the application. Also submitted are a translation of the certified copy of the priority document and a statement that the translation of the certified copy is accurate. It is respectfully submitted that the foreign priority to DE 19738205.3 filed September 2, 1997 has been established and therefore, the rejection of claim 47 under 35 U.S.C. 102(a) has been overcome and withdrawal thereof is respectfully requested.

The peptides recited in claims 48-51 are the non-elected species within the elected Group III, while claim 47 recites the elected species. See the Restriction Requirement mailed August 27, 2001 and Applicants Response to Restriction Requirement filed October 12, 2001. As is stated in Applicants Response to Restriction Requirement, consideration of claims directed to SEQ ID NOs: 2-5 (the non-elected species of elected Group III) should take place upon allowance of a claim directed to elected species SEQ ID NO: 1. Claim 47 is directed to the elected species of SEQ ID NO: 1, while claims 48-51 are directed to the non-elected species of SEQ ID NOs: 2-5. Accordingly, should the Examiner allow claim 47, consideration of claims 48-51, which are directed to the non-elected species within the elected invention, is respectfully requested. In connection with the examination of claims 48-51, Applicants direct the Examiner's attention to the Office Action dated January 30, 2003. At the top of page 4 of this Office Action, the Examiner indicated that the fragments of SEQ ID NO: 1 depicted in Fig. 4 were free of the prior art. SEQ ID NOs: 2-5 correspond to these fragments. Since claims 48-51 are directed to SEQ ID NOs: 2-5, Applicants also respectfully request the favorable consideration and allowance of claims 48-51.

Conclusion:

Based on the foregoing remarks, favorable consideration and allowance of claims 47-51 is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment, to Goodwin Procter LLP Deposit Account No. 06-0923.

Respectfully submitted for Applicant,



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